TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~553~~. 325

AMBROSE H. SEVIER, ADMINISTRATOR OF JOHN A. JORDAN, DECEASED, AND J. C. RICKS, PLAINTIFFS IN ERROR,

vs.

LANGDON C. HASKELL, AS ADMINISTRATOR OF AUGUSTUS M. SMITH, DECEASED.

IN ERROR TO THE SUPREME COURT OF THE STATE OF ARKANSAS.

FILED JULY 14, 1871.

[redacted]

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1 ARKANSAS, *to wit:*

In the supreme court of said State, at Dec. term, 1870.

AMBROSE H. SEVIER, AS ADM'R OF JOHN A. JORDAN, dec., and J. C. Ricks & Co., appellants,
vs.
LANGDON C. HASKELL, AS ADM. OF AUGUSTUS M. Smith, deceased, appellee.
} Appeal from Arkansas c't c't.

Come the said appellants, by their solicitors, and pray the allowance of a writ of error in this cause to the Supreme Court of the United States.

And the said appellants, being such plaintiffs in error, say that in the decree and proceedings had in this cause before the honorable the supreme court of said State, manifest error hath intervened in this, to wit:

2 That the said supreme court decided that the mortgage set up by said appellee was a valid and subsisting lien upon the lands of the estate of the said John A. Jordan, therein described; whereas, by law, the same was not a valid and subsisting lien.

2. Said supreme court decreed in favour of said appellee for the amount of his claim and demand against the estate of said John A. Jordan; whereas, by law, the supposed consideration therefor had failed, and become illegal and against public policy.

3. Said supreme court refused the prayer of said appellants that further proceedings for the collection or recovery of said demand and claim, the same appearing to be founded on a contract for the sale and purchase of slaves, and upon no other consideration, be stayed and perpetually superseded, and that the court take no further cognizance of this suit.

3 4. Said decree, in form aforesaid rendered, is in favour of said appellee and against said appellants; whereas, by law, the same should have been rendered in favour of said appellants and against said appellee.

And for these and other manifest errors, apparent of the record and proceedings had in this cause, said appellants being plaintiffs in error, pray that said decree may be reversed and held for naught.

WATKINS & ROSE,
Sol. for Sevier, Adm'r.
GARLAND & NASH,
For J. C. Ricks, & al.

4 And upon the filing of the following agreement, the said plaintiffs in error pray that the writ of error allowed in this case may operate as a supersedeas, and stay of execution of the judgment and decree herein rendered.

WATKINS & ROSE,
Sol. for Pl'ff in Error.
GARLAND & NASH,
For J. C. Ricks, & al.

Upon the allowance of the writ of error in the above-entitled cause, and in order that the same may operate as a supersedeas, and stay of execution of the judgement and decree aforesaid, pending said writ of error in the Supreme Court of the United States, it is agreed that Sol.

F. Clark, esq., one of the solicitors of said defendant in error, shall collect, receive, and hold the rents of the mortgaged property in this case, including said rents for the year 1871, pending the decision on
5 said writ of error in the Supreme Court of the United States, and subject to such decision as receiver thereof, selected by consent of parties hereto, without affidavit, bond, or security, all which rents so received by him, less such compensation for his services, as such, as may seem reasonable to the hon. the supreme court of the State of Arkansas, in the event of a reversal by the Supreme Court of the United States of said judgement and decree aforesaid, are to be by him, the said receiver, paid over to the said Ambrose H. Sevier, as administrator of the said John A. Jordan, deceased, or to any proper administrator of said estate; otherwise, and in case of the affirmance of said decree, to be retained for benefit of said defendant in error; and in respect hereof we agree that said receiver shall, in all things, be subject to the rules and orders of said supreme court of the State of Arkansas.

WATKINS & ROSE,
For Pl'ffs in Error.
CLARK & WILLIAMS.
GARLAND & NASH,
For J. C. Ricks & al., Pl'ffs in Error also.

6 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the judges of the supreme court of the State of Arkansas, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court, before you or some of you, between Ambrose H. Sevier, as administrator of John A. Jordan, deceased, and John C. Ricks and Benjamin S. Ricks, partners composeing the firm of J. C. Ricks & Co., appellants, and Langdon C. Haskell, as administrator of Augustus M. Smith, deceased, appellee, on appeal from the circuit court of Arkansas County in chancery, a manifest error hath happened, to the great damage of the said Ambrose H. Sevier as such administrator, and of the said John C. Ricks and Benjamin S. Ricks, as is said and as appears by their complaint:

We, being willing that such error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the justices of the Supreme Court of the United States, at the Capitol in the city of Washington, together with this writ, so that you have the same at the said place, before the justices aforesaid, on the first Monday of December next, that the record and proceedings aforesaid being inspected, the said justices of the Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States ought to be done.

Witness the Honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this ninth day of January, in the year of our Lord one thousand eight hundred and seventy-one, and of the independence of the United States the 94th.

[SEAL.] FRANK E. WRIGHT,
Clerk of the Circuit Court of the United States of America for the Eastern District of Arkansas.

Allowed by me—

W. W. WILSHIRE,
Chief Justice of the Supreme Court of the State of Arkansas.

7 To Langdon C. Haskell, as administrator of Augustus M. Smith, deceased, greeting:

You are hereby cited and admonished to be and appear in a Supreme Court of the United States, to be holden at Washington on the first Monday of December next, pursuant to a writ of error, filed in the office of the clerk of the supreme court of the State of Arkansas, wherein Ambrose H. Sevier, as administrator of John A. Jordan, deceased, and Messrs J. C. Ricks & Co. are plaintiffs and you are defendant in error, to show cause, if any there be, why the judgement and decree in the said writ of error mentioned, should not be corrected, and speedy justice done to the parties in that behalf.

Given under my hand at the city of Little Rock, in said State, this 9th day of January A. D. 1871.

W. W. WILSHIRE,
Chief Justice of the Supreme Court of the State of Arkansas.

8 We acknowledge due service of this citation at Little Rock, Arkansas, this 9th day of January, 1871.

CLARK & WILLIAMS.

(Indorsed :) Sevier, adm'r, et als. vs. Haskell, adm'r. On appeal. Assig'ment of errors. Writ of error. Agreement for supersedeas. Citation. Filed Jan. 9, 1871. N. W. Cox, clerk.

9 Be it remembered that a term of the supreme court of the State of Arkansas, began and held at the court-house in the city of Little Rock in said State, on Monday the 5th day of December, A. D. 1870, were had the following proceeedings, viz:

AMBROSE H. SEVIER, ADMINISTRATOR OF THE estate of John A. Jordan, dec'd, and J. C. Ricks & Co., appellants, *against* LANGDON C. HASKILL, ADMINISTRATOR OF THE estate of Augustus M. Smith, dec'd, appellee.	Appeal from Arkansas circuit court.

Be it remembered that, on the 6th day of November, A. D. 1867, there was filed in said supreme court the following transcript, to wit:

To the Honorable William M. Harrison, judge of the Arkansas circuit court, in chancery presiding:

Your complainant, Langdon C. Haskill, as administrator of the estate of Augustus M. Smith, deceased, brings this his bill of complaint against Ambrose H. Sevier, administrator of the estate of John A. Jordan, dec'd, and Matilda Jordan, Robert W. Jordan, Mary Jordan, and Irene Jordan, children and heirs of the said John A. Jordan, dec'd, all of whom are made defendants herein, and, respectfully complaining, sheweth to your honor that, on the 15th day of March, A. D. eighteen hundred and sixty, the said John A. Jordan, to secure the payment of his four several writings obligatory, bearing date the eighth day of March, A. D. 1860, and each for the sum of fifteen thousand dollars, and due

10 and payable at the counting-house of Washington Jackson & Co. New Orleans, La., on the 8th of March, 1861, on the 8th of March 1862, on the 8th of March 1863, and on the 8th of March 1864, with (8) eight per cent. interest upon each of said notes, from the date thereof until paid, and made payable to the order of Augustus M. Smith, did mortgage to the said Augustus M. Smith the following tracts or parcels of land, to wit: The east fractional half of section five, in township eight (8) south, of range four west, containing 277 $\frac{15}{100}$ acres; section (8) eight, township eight (8) south, range four west, containing six hundred and forty acres; the north half of section (17) seventeen and the east half of the southeast quarter of section seventeen (17) in township eight (8) south, range four west, containing four hundred acres; north half of section four, (4,) township eight (8) south, range four west, containing three hundred and thirty-two acres and $\frac{74}{100}$ of an acre; the southeast quarter and the east half of the southwest quarter of section thirty-three, (33,) in township seven south, of range four west, containing two hundred and forty acres; southwest quarter of section four, containing one hundred and sixty acres, and containing in all two thousand and forty-nine acres and $\frac{89}{100}$ acres, all of which will more fully appear, and reference is hereby made to the original mortgage from the said John A. Jordan to the said Augustus M. Smith, in the handwriting of the said Jordan, herewith exhibited, and asked to be taken and considered as a part of this bill, marked Exhibit "A," No. "1."

Your complainant, further charging, states to your honor that there now due and owing from the estate of the said John A. Jordan, dec'd, three of said writings obligatory, to wit: One due twenty-four months after date, one due thirty-six months after date, and one due
11 forty-eight months after date, and each bearing interest at the rate of eight per cent. interest per annum, from date until paid.

Your complainant states that said writings obligatory have been duly authenticated by the affidavit of Langdon C. Haskill, as administrator of the said Augustus M. Smith, dec'd, and the same have been duly presented for allowance to the said Ambrose H. Sevier, as adm'r of the said John A. Jordan, dec'd, all of which will more fully appear, and reference is hereby made to said three writings obligatory, herewith exhibited, marked Exhibit "B," No. "2," and prayed to be taken and considered as part of this bill.

Your complainant states that Richard Johnson, who is made defendant herein, is now in possession of the aforesaid lands and that your complainant, as adm'r as aforesaid, holds a lien upon said lands for the payment of the said sums of money & interest as aforesaid—the writings obligatory marked Exhibit "B," No. "2" as aforesaid.

The premises considered, your complainant prays your honor to grant him a decree for the payment of the said several sums of money in the said three writings obligatory, marked Exhibit "B," No. "2," and interest thereon at 8 p'r cent. from the date of said writings obligatory by a day to be therein named, and on failure thereof that the aforesaid lands, or so much thereof as may be necessary, be sold to satisfy your complainant's said debt, interest, and costs, and that defendant's equity of redemption be forever foreclosed in said lands, together with such other and further relief as to your complainant in equity belongs and to your honor shall seem just. Grant to your complainant the Commonwealth's writ of subpœna, to be directed to said defendants, Ambrose H. Sevier
12 & Richard Johnson, *Irene M.* Jordan, Robert W. Jordan, Mary Jordan, and Irene Jordan, commanding them to appear and an-

swer herein, &c. And as in duty bound your complainant will ever pray, &c.

LANGDON C. HASKILL,
Complainant.

BELL & CARLETON, *S'c'rs.*

This deed of mortgage, made this 15th day of March, in the year of our Lord one thousand eight hundred and sixty, by and between John A. Jordan, of the county and State of Arkansas, of the first part, and Augustus M. Smith, of the county of Jefferson, and State of Arkansas, of the second part, witnesseth: That, for and in consideration of the sum of one dollar, the receipt whereof is hereby acknowledged, and to secure the payment of sixty thousand dollars for which the said party of the first part hath executed his four several promissory notes, bearing date 8th March, 1860, for the sum of fifteen thousand dollars each, and to bear interest from the date of said notes until paid, at the rate of eight per cent. per annum, due and payable at the counting-house of Wash'n Jackson & Co., in the city of New Orleans, La., on the 8th March, 1861, on the 8th March, 1862, on the 8th March, 1863, on the 8th March, 1864, the said party of the first part hath granted, bargained, and sold to Augustus M. Smith, his heirs, and assigns, the following tracts or parcels of land, to wit: The east fractional half of section five (5) in T. 8 S., R. 4 west, containing $277\frac{15}{100}$ acres; sec. 8, T. 8
13 S., R. 4 west, *coning* 640 acres; the N. $\frac{1}{2}$ of section 17, and the E. $\frac{1}{2}$ of the S. E. $\frac{1}{4}$ of sec. 17, in T. 8 S., R. 4 west, containing (400;) N. $\frac{1}{2}$ sec. 4, T. 8 S., R. 4 west, containing $332\frac{14}{100}$; S. E. $\frac{1}{4}$ and E. $\frac{1}{2}$ of S. W. $\frac{1}{4}$ section 33, T. 7 S., R. 4 west, containing 160 acres—in all $2{,}049\frac{89}{100}$ acres: To have and to hold the said lands with the tenements, hereditaments, and appurtenances thereto belonging or in any manner appertaining, to the said party of the second part, his heirs, and assigns forever: Provided always, nevertheless, that, if the said John A. Jordan, his heirs, or administrators, shall well and truly pay or cause to be paid the said sum of sixty thousand dollars, with the interest that may accrue thereon, according to the tenor and effect of said promissory notes, to the said party of the second part, his heirs, or assigns, then and from thenceforth will this present mortgage or indenture, and the estate hereby granted *as* the said written obligation shall cease and become absolutely null and void to all intents and purposes, anything hereinbefore contained to the contrary notwithstanding.

Witness my hand and seal this 15th day of March, 1860.

JOHN A. JORDAN. [SEAL.]

Witness—
JAMES E. ISBELL.
CARROLL FLETCHER.

STATE OF ARKANSAS, *County of Arkansas:*

I, Joseph H. Maxwell, clerk of the circuit court, and ex-officio recorder for the county aforesaid, do hereby certify that the annexed and
14 foregoing instrument of writing was filed for record in my office on the 22 day of October, in the year of our Lord one thousand eight hundred and sixty, and the same is now duly recorded in record-book "L," on page 371.

In testimony whereof I have hereunto set my hand and affixed the seal of the circuit court of Arkansas County, this 7th day of December, A. D. 1860.

[L. S.] JOSEPH H. MAXWELL,
Clerk & Ex-officio Recorder.

$15,000 00.] SOUTH BEND, ARK'S, *March 8th*, 1860.

Thirty-six months after date I promise to pay, at the counting-house of Washington Jackson & Co., New Orleans, La., to the order of Augustus M. Smith, the sum of fifteen thousand dollars, for value received, bearing interest at the rate of eight per cent. per annum from date until paid.

JOHN A. JORDAN. [SEAL.]

$15,000 00.] SOUTH BEND, ARK'S, *March 8th*, 1860.

Forty-eight months after date I promise to pay, at the counting-house of Washington Jackson & Co., New Orleans, La., to the order of Augustus M. Smith, the sum of fifteen thousand dollars, for value received, bearing interest at the rate of eight per cent. per annum from date until paid.

JOHN A. JORDAN. [SEAL.]

SOUTH BEND, ARK'S, *March 8th*, 1860.

Twenty-four months after date I promise to pay, at the counting-house of Washington Jackson & Co., New Orleans, La., to the order of Augustus M. Smith, the sum of fifteen thousand dollars, for
15 value received, bearing interest at the rate of eight per cent. per annum from date until paid.

JOHN A JORDAN. [SEAL.]

STATE OF ARKANSAS, *County of Jefferson:*

I, Langdon C. Haskell, administrator of the estate of Augustus M. Smith, do solemnly swear that I have made diligent enquiry and examination, and that I verily believe that nothing has been paid upon the three above-mentioned obligations, and that the sum of forty-five thousand dollars, the amount of said three writings obligatory, is justly due the estate of said A. M. Smith, with eight per cent. per annum interest from the 8th March, 1860, as per said writings.

L. C. HASKELL, *Adm'r.*

Sworn to and subscribed before me this 1st day of May, 1866.

W. D. JOHNSON, *J. P.*

Exhibit "B," No. 2

SOUTH BEND, ARK'S, *May 21st*, 1866.

Examined and disallowed for the reason that the debt is for slaves purchased in 1860, and freed in 1863 by the United States.

A. H. SEVIER,
Adm'r of the Estate of John A. Jordan.

Filed for record 22d October, 1860.

JOHN P. TAYLOR, *Clerk*,
By B. F. QUERTERMOUS, *D. C.*

Filed in my office and writ of subpœna issued this the 9th day of October, 1866.

JOSEPH H. MAXWELL, *Clerk.*

16 STATE OF ARKANSAS, *County of Arkansas:*

The State of Arkansas to the sheriff of Arkansas County, greeting:

You are hereby commanded to summon Ambrose H. Sevier, adminis-

trator of the estate of John A. Jordan, deceased, and Matilda Jordan, Robert W. Jordan, Mary Jordan, and Irene Jordan, children and heirs of the said John A Jordan, dec'd, if they be found within your bailiwick, to be and appear before the judge of our circuit court of Arkansas County, at a court to be holden at the court-house, in the county aforesaid, on the seventh Monday after the fourth Monday of September, 1866, then and there to answer Langdon C. Haskell, as administrator of the estate of Augustus M. Smith, deceased, to a bill in chancery filed and exhibited against him therein, and that you make due return of this writ to our said court.

In testimony whereof I, Joseph H. Maxwell, clerk of the circuit court in and for said county, have hereunto set my hand and affixed the seal of said court, at office, this the 9th day of October, 1866.

[L. S.] JOSEPH H. MAXWELL, *Clerk.*

[50 cents U. S. revenue stamp.]

Endorsed on the back as follows, to wit:

I executed this writ on the within-named Ambrose H. Sevier, on the 12th day of October, 1866, at the county of Arkansas, in the State of Arkansas, by then and there delivering to him a true copy
17 hereof. The within-named Matilda Jordan, Robert W. Jordan, Mary Jordan, and Irene Jordan are not to be found within my county.

Given under my hand this 20th day of October, 1866.

R. C. MARTIN, *Sheriff.*

Filed 12 November, 1866.

W'M F. GIBSON, *Clerk,*
By JOSEPH H. MAXWELL, *D. C.*

STATE OF ARKANSAS, *County of Arkansas:*

Be it remembered that, at a circuit court began and held at the court-house, in the town of De Witt, in the county and State aforesaid, on the chancery side thereof, on Monday, the 13th day of May, 1867, it being the time appointed by law for holding said court, when and where the following proceedings were had before the Honorable William M. Harrison, judge of said court, presiding as chancellor, to wit:

L. C. HASKELL, ADM'R, &C., COMPLAINANT,
vs.
AMBROSE H. SEVIER, ADM'R, &C., OF JOHN A. Jordan, dec'd, defendant.

Now, on this day, comes the said defendant, by his solicitor, and files herein his seperate answer to complainant's bill of complaint.

STATE OF ARKANSAS, *County of Arkansas:*

18 In the circuit court of said county, in chancery, at the May term thereof, A. D. 1867.

The answer of Ambrose H. Sevier, as administrator of the estate of John A. Jordan, late of said county, deceased, to the bill of complaint exhibited in this hon. court against him, with others, by Langdon C. Haskell, as administrator of the estate of Augustus M. Smith, deceased.

This defendant, saving and reserving all just exceptions to said bill of

complaint, and the manifest insufficiencies thereof, for answer thereto, nevertheless, or so much thereof as he is advised is material for him to answer, says: That upon information he has reason to believe the three writings obligatory mentioned in said bill were given by the said John A. Jordan to the said Augustus M. Smith, who resided in the State of South Carolina, as part of the consideration for 85 negro slaves, sold by the said Augustus M. Smith to the said John A. Jordan on the 8th day of March, A. D. 1860; and respondent, upon information and belief, avers such to have been the sole consideration for said writings obligatory, and none other, as will more fully and at large appear by reference to the bill of sale of that date of and for said negroes, executed by the said Augustus M. Smith to the said John A. Jordan, ready to be produced, and a true copy whereof is hereto annexed and made part hereof, marked Exhibit "A." The entire consideration for said negroes was eighty thousand dollars, of which thirty-five thousand dollars was paid to the said Augustus M. Smith in his lifetime, of which twenty thousand
19 dollars was paid in cash at the time of purchase, and computing interest on said entire consideration, as well the amount paid to said Augustus M. Smith, as that remaining unpaid from said 8th day of March, A. D. 1860, down to the time of filing this answer, it would amount to over one hundred and twenty-five thousand dollars, for property which, owing to the civil war ensuing within a year after the date of such purchase, became an expense and an incumbrance. The said John A. Jordan departed this life in the month of September, A. D. 1861, and over and above the loss of all the negroes belonging, or supposed to belong to his estate, the loss of crops unplanted, the unavoidable waste and destruction of all kinds farming-stock, there was burned at one time after his death, and in the year 1862, under military orders of the late Confederate States of America, on his plantation in said county, cotton belonging to his estate, which, at various times since then would or could have been sold for over a million of dollars. All of which losses leaves his estate insolvent in the sense of being unable to pay in full all the claims exhibited against it, and which, if the claim here preferred by said complainant is to be included, amount in the aggregate, to largely over two hundred thousand dollars.

No administration was had upon the estate of the said John A. Jordan until the 9th day of February, A. D. 1866, when letters were issued to respondent of that date, by the probate court of said county, in which the said John A. Jordan resided at the time of his death, which
20 letters are ready to be produced, and a duly-certified copy whereof is hereto annexed and made part hereof, and marked Exhibit "B." It is true that respondent, as such administrator, rejected said claim in favor of the estate of said Augustus M. Smith when presented to him for allowance. He avers it to be true that said John A. Jordan paid to said vendor, Augustus M. Smith, more than said negroes were ever worth to him, the said Jordan, or his estate, and said negroes having become emancipated and lost to his estate, respondent insists and submits, that as to the residue of said purchase-money therefor, here claimed, there has become, and is, an entire failure of consideration. In and by his said bill of sale, said Augustus M. Smith warranted the title to said negroes as well as that they were slaves for life, to the said John A. Jordan, his heirs, and assigns forever. All of said negroes have become emancipated and lost to the estate of the said John A. Jordan. They are not slaves for life, and the title to them, supposed to have been derived from the said Augustus M. Smith, has wholly failed. Re-

spondent also insists and submits that, as to any portion of the purchase-money agreed to be given for said negroes, and as between the said Augustus M. Smith, and the said John A. Jordan or their estates remaining unpaid, there was, and is, such a total breach of said warranties, as to bar and preclude any claim or recovery therefor, by or on behalf of said complainant against respondent, as such administrator.

Respondent, further answering, says that he has no personal knowledge of the execution of said alleged mortgage, and as the same never was acknowledged or recorded in the manner required by law to
21 give it any validity as such, respondent does not feel called upon to admit the paper exhibited with said bill, purporting to be a certified copy of the same. The lands described in said paper include about one-third of all the available property left and belonging to the estate of the said John A. Jordan for the payment of his debts, and after deducting the dower of the widow of the said Jordan, which has been assigned to her, consisting of about one-third of his plantation and lands, if the claim set up by said complainant is to be a prior and privileged lien upon that portion of said plantation and lands included in said paper, there would remain but one-third of said plantation and lands as a fund available for the payment of the other large and numerous debts of said estate, already allowed, and many of which are altogether more meritorious than the claim here set up by said complainant. If, in the judgment of the court, said claim is a valid and subsisting one against the estate of the said John A. Jordan, respondent insists and submits that the most that could be accorded to it would be to be allowed to come in for its due share or pro rata along with the other creditors, to be paid out of the general fund that may be realized from the estate, whatever might be the effect and operation of said paper, purporting to be a mortgage as against the said John A. Jordan, if in full life, or his heirs at law having descendible assets, respondent is advised that when he took upon himself the burthen of said administration, he became, and is, a trustee of said estate first and above all, for
22 the creditors of the said John A. Jordan, and he insists and submits that, by law, as to him, as such administrator, and the general creditors of said estate whom he represents, said paper so exhibited, and purporting to be a mortgage upon a part of said plantation and land, has no valldity or efficacy whatever as such, or so as to confer upon the claim set up by said complainant, any priority of lien or incumbrance as against the other creditors of said John A. Jordan.

Respondent, further answering, says it is true that, at the time of filing said bill, said Richard H. Johnson was in the occupancy of that part of said plantation and lands described in said paper, purporting to be a mortgage, the same having been rented to him for the time being, but now, as a defendant, has no other or further interest in this suit.

And having fully answered, or intended so to do, without this, that any matter or thing in said bill contained and not hereinbefore answered, traversed, or denied, is true within the knowledge or belief of this respondent, and without this that said bill of complaint, and the matters therein contained are sufficient in law to entitle the said complainant to the relief hereby sought, or to any relief in the premises—but respondent demurs in law thereto—respondent prays to be hence discharged hereof with his costs, &c.

WATKINS & ROSE,
Sol. for Def't.

STATE OF ARKANSAS,
County of , *to wit:*

Ambrose H. Sevier, the defendant named in the within and foregoing answer as administrator of the estate of John A. Jordan, deceased, being duly sworn states that said answer and the matters therein set forth, so far as they rest within his own knowledge are true, and so far as the same are derived from the information of others, he verily believes the same to be true as therein stated.

A. H. SEVIER,
Adm'r of Estate of John A. Jordan.

Sworn to and subscribed before me, an acting justice of the peace in and for said county and State this 4th day of March, A. D. 1867.

A. D. JAMES, *J. P.*

[5 cents U. S. rev. stamp cancelled.]

EXHIBIT "A."

JEFFERSON COUNTY, *State of Arkansas:*

Received, this the 8th day of March, 1860, A. D., of John A. Jordan, of Arkansas County, State of Arkansas, the sum of eighty thousand dollars in full consideration for the following slaves, to wit:

Ellison, aged 29 years; Lydia, aged 19 years; Susanna, aged ½ year; Cyrus, aged 26 years; Emma, aged 19 years; Bill, 45 years age; Sophy, aged 26 years; Etta, aged 4 years; Caroline, aged ¾ year; Sumter, aged 39 years; Sarah, aged 41 years; Symas, aged 18 years; Sheppard, aged 16 years; Timothy, aged 14 years; Amsey, aged 12 years; Christian, aged 11 years; Junius, aged 9 years; Sylvia, aged 7 years; Jonas, aged 5 years; Thisbe, aged 3 years; Hamilton, ¾
24 year; Cuffee, 65 years; Bella, aged 24 years; Uriah, aged ½ year; Adam, aged 20 years; Mark, aged 15 years; Milley, aged 13 years; Eve, aged 18 years; Jack, aged 24 years; Teresa, aged 22 years; Cato, aged 50 years; Patty, aged 55 years; Moses, aged 20 years; Nelly, aged 18 years; Myers, aged 16 years; Katy, aged 14 years; Henry, aged 11 years; Dave, aged 51 years, Little Sarah, aged 32 years; Caleb, aged 12 years; Chance, aged 10 years; Edward, aged 7 years; Linda, aged 5 years; Cinda, aged 2 years; Primus, aged 47 years; India, aged 42 years; Washington, aged 20 years; Shadrack, aged 17 years; Jemima, aged 15 years; Maria, aged 12 years; Diana, aged 10 years; Roxana, aged 8 years; Patience, aged 7 years; Ezekiel, aged 4 years; Patty, aged 2 years; March, aged 49 years; Candice, aged 39 years; Daniel, aged 12 years; Clarissa, aged 9 years; Norah, aged 3 years; Jeffery, aged 35 years; Daphne, aged 29 years; Mariva, aged 5 years; Solomon, aged 2 years; Doctor, aged 22 years; Minta, aged 16 years; Mike, aged 31 years; Hannah, aged 28 years; Jenkins, aged 10 years; Julia, aged 4 years; Manley, aged 2 years; Jake, aged 40 years; Dick, aged 45 years; Peter, aged 17 years; Marion, aged 12 years; Georgian, age 10 years; Sylvia, aged 6 years; Abel, aged 4 years; Charity, aged 2 years; Israel, aged 22 years; Charles, aged 24 years; Gadry, aged 22 years; Betsey, aged 5 years; Louisa, aged 25 years; Rosella, aged 2 years—in all eighty-five slaves: To have and to hold the above-mentioned slaves to him, the said John A. Jordan, his heirs and assigns forever.

And I, Augustus M. Smith, do hereby bind myself, my heirs, and administrators to warrant and defend the title of said slaves to said

Jordan, his heirs and assigns. I also warrant said slaves
25 to be sound in body and mind, and slaves for life.

AUG. M. SMITH.

Witnesses:
LANGTON C. HASKELL.
G. W. ANDERSON.

Except in the above bill of sale, Mike, aged 31 years, has the dyspepsia, and Hannah, aged 28 years, has the scrofula.

EXHIBIT "B."

STATE OF ARKANSAS, *County of Arkansas:*

State of Arkansas to all persons to whom these presents shall come, greeting:

Know ye that, whereas John A. Jordan, of the county of Arkansas, died testate, as it is said, on or about the 15th day of September, A. D. 1861, his last will being duly probated, having at the same time of his death personal property in this State which may be lost, destroyed, or diminished in value, if speedy care be not taken of the same, and the executrix named in said last will having refused to act:

To the end, therefore, that the said property may be collected, preserved, and disposed of according to law, we do hereby appoint Ambrose H. Sevier, of the county of Arkansas, administrator with the will annexed, of all and singular the goods and chattels, rights and cred its, which were of the said John A. Jordan at the time of his death, with full power and authority to secure and dispose of the said property according to law, and collect all moneys due said deceased, and in general to do and perform all other acts and things which are or hereafter
26 may be required of him by law.

In testimony whereof I, Joseph H. Maxwell, clerk of the circuit and ex-officio clerk of the court of probate, in and for the county of Arkansas aforesaid, have hereunto set my hand and affixed the seal of said court at office this 9th day of February, A. D. 1866.

[L. S.] JOSEPH H. MAXWELL, *Clerk*,
By B. F. QUERTERMOUS, *Dep. Clk.*

A true copy:

A. H. SEVIER.

STATE OF ARKANSAS,
County of Arkansas, to wit:

I, William F. Gibson, clerk of the circuit court and ex-officio clerk of the probate court in and for said county of Arkansas, do hereby certify that the within and foregoing two pages contain a true, full, and complete transcript of the letters of administration granted by said probate court to A. H. Sevier upon the estate of John A. Jordan, deceased, as the same appears of record in my office.

In testimony whereof I have hereunto set my hand as such clerk and affixed my official seal at office in DeWitt, this 16th day of May, A. D. 1867.

[L. S.] W'M F. GIBSON, *Clerk.*

Filed in open court 14th day of May, 1867.

W. F. GIBSON, *Clerk*,
By B. F. QUERTERMOUS, *D. C.*

27 In the Arkansas circuit court, in chancery. May term, A. D. 1867.

LANGDON C. HASKELL, AS ADMINISTRATOR OF Augustus M. Smith, deceased,
vs.
AMBROSE H. SEVIER, AS ADMINISTRATOR, &C., Matilda Jordan, et al., heirs at law of John A. Jordan, dec'd.

Comes said complainant, Langdon C. Haskill, and asks leave to amend his original bill herein, and by way of amendment your complainant charges that Matilda Jordan, Robert W. Jordan, Mary Jordan, and Irene Jordan, defendants in said bill, are the minor children and heirs of John A. Jordan, deceased.

And your complainant charges that he is the administrator of Augustus M. Smith, dec'd, and brings here into court a certified copy of his letters of administration, marked Exhibit "H."

LANGDON C. HASKELL,
Compl't.

BELL & CARLTON, *Sol's.*

Filed 16th May, 1867.

W'M F. GIBSON, *Clerk*,
By B. F. QUERTERMOUS, *D. C.*

In the Arkansas circuit court, in chancery. May term, A. D. 1867.

28 LANGDON C. HASKELL, AS ADM'R OF Augustus M. Smith, deceased, complainant,
v.
AMBROSE H. SEVIER, AS ADM'R OF JOHN A. Jordan, deceased, &c., defendant.

Comes said complainant, Langdon C. Haskell, and moves the court to appoint George C. Watkins guardian ad litem for Matilda Jordan, Robert W. Jordan, Mary Jordan, and Irene Jordan, the minor children of John A. Jordan, deceased.

LANGDON C. HASKELL,
Compl't.

BELL & CARLETON.

I, George C. Watkins, do hereby consent to act as guardian ad litem for Matilda Jordan, Robert W. Jordan, Mary Jordan, and Irene Jordan, the minor children and heirs of John A. Jordan, deceased, and defendants in the above cause.

GEO. C. WATKINS.

Filed 16th May, 1867.

W'M F. GIBSON, *Clerk*,
By B. F. QUERTERMOUS, *D. C.*

In the Arkansas circuit court, in chancery. May term, 1867.

LANGDON C. HASKELL, ADM'R OF AUGUSTUS M. Smith, deceased, complainant,
v.
AMBROSE H. SEVIER, ADM'R OF JOHN A. JORdan, deceased, et al., defendant.

The joint and seperate answer of Matilda Jordan, Robert W. Jordan, Mary Jordan, and Irene Jordan, by their guardian ad litem,
29 George C. Watkins, to the bill of complaint filed and exhibited against them et al. in the Arkansas circuit court, in chancery, by Langdon C. Haskell, as adm'r of Augustus M. Smith, dec'd.

Respondents, for answer to complainant's bill, state they know nothing of the matters and things therein contained; that they are children of tender years, and ask that their rights be protected in the premises. And having answered, they pray to be hence dismissed with costs, &c.

GEO. C. WATKINS,
Guardian Ad Litem.

Filed 16th May, 1867.

W. F. GIBSON, *Clerk*,
By B. F. QUERTERMOUS, *D. C.*

In Ark's c't c't, in ch'y, at May T., A. D. 1867.

LANGDON C. HASKELL, AS ADM'R OF A. M. Smith, deceased, complainant,
v.
AMBROSE H. SEVIER, AS ADM'R, WITH WILL annexed, of John A. Jordan, dec'd, and others, defendants.
} Bill to foreclose.

On the submission of this cause for hearing, the said parties, by their respective solicitors, agree as follows, and ask that the same be filed and made a part of the record in this cause:

All the facts stated and appearing in and by said bill of complaint herein, and exhibits thereto, and not being inferences or conclu-
30 sions of law, are to be taken as true. All the facts stated and appearing in and by said answer of said Ambrose H. Sevier, as administrator with the will annexed, of said John A. Jordan, deceased, to said bill of complaint, and exhibits to said answer, and not being inferences or conclusions of law, are to be taken as true.

The original mortgage exhibited with said bill of complaint is in the handwriting of the said John A. Jordan, and was by him handed to the clerk and ex-officio recorder of said county on the 22d day of October, 1860, for record.

And whereas John C. & Benjamin S. Ricks, of New Orleans, in the State of Louisiana, proposed to intervene in this cause and exhibit their bill herein as creditors, and for the interests of themselves, as well as other creditors of the estate of said John A. Jordan, deceased, setting up the following facts: That they have a claim, allowed on the 8th day of November, A. D. 1866, in the 4th class, against said estate, for the sum of seventy-five thousand five hundred and sixteen dollars and

sixty-five cents, say, $75,516 65, consisting chiefly of cash advances made by them to the said John A. Jordan, in his lifetime, prior to the 8th day of March, 1861, and for which they do not have or claim any security, priority, or preference by virtue of any lien or contract over or above the general creditors of said estate, and setting up the same facts respecting the validity of the said alleged mortgage on the one hand, and the alleged invalidity of the same on the other hand, as con-
31 tained in or admitted by the foregoing part of this agreement with reference to the pleadings on file herein, and praying that said mortgage be adjudged and decreed to be invalid and insufficient to secure to the said administrator of the said Augustus M. Smith, deceased, any preference or priority by virtue thereof over the general creditors of the estate of the said John A. Jordan, deceased, which is insolvent:

Now, to avoid encumbering the record hereof, it is further agreed that this cause shall be heard and submitted for decree herein with like effect as if such bill by and on behalf of said creditors had been filed herein, and containing such allegations as aforesaid, the same not being denied, and the entire facts being submitted to the court for its determination of the law arising thereon.

De Witt, Ark's, May 17th, 1867.

BELL & CARLETON,
Sol's for Compl't.
WATKINS & ROSE,
Sol. for Def'ts.
GARLAND & NASH,
Sol. for J. C. & B. S. Ricks.

Filed May 17th, 1867.

W. F. GIBSON, *Clerk.*

STATE OF ARKANSAS, *County of Arkansas:*

Be it remembered that at a circuit court began and held at the courthouse in the town of De Witt, in the county and State aforesaid, on the chancery side thereof, on Monday, the 13th day of May, 1867,
32 it being the time appointed by law for holding said court, when and where the following proceedings were had before the Honorable William M. Harrison, judge of said court, presiding as chancellor, to wit:

LANGDON C. HASKELL, AS ADMINISTRATOR OF Augustus M. Smith, deceased, complainant,
v.
AMBROSE H. SEVIER, AS ADMINISTRATOR OF John A. Jordan, deceased, and others, defendants.
} Bill to foreclose.

On this day comes the parties, by their respective solicitors, and by leave of the court filed their agreement of facts in this cause.

LANGDON C. HASKELL, AS ADMINISTRATOR OF Augustus M. Smith, dec., complainant,
v.
AMBROSE H. SEVIER, AS ADMINISTRATOR OF John A. Jordan, dec'd, et als.
} Bill to foreclose.

And now, this day, Richard H. Johnson, by solicitors, Watkins &

Rose, enters his appearance herein and agrees to submit to and abide by any decree that may be rendered herein. And this cause having come on to be heard at a former day of this term, and was heard upon the bill, amended bill, and exhibits thereto; the answer of said Ambrose H. Sevier, as such administrator, and exhibits thereto; and the replication to said answer of the minor heirs of the said John A. Jordan, dec'd, by their guardian ad litem, George C. Watkins, and replication thereto;

33 and upon the agreement of parties, filed herein and agreed by consent, and submitted for decree herein. And the court being now well and sufficiently advised of and concerning the premises, and of what decree to render herein—

It is therefore ordered, adjudged, and decreed by the court here, that said bill of complaint be dismissed for want of equity, and that said complainant, as such administrator, do pay the costs of this suit.

Whereupon the said complainant prays an appeal herein, and from the decree aforesaid, to the supreme court.

And the said defendants, by counsel, waiving any affidavit for such appeal, it is ordered by the court, that such appeal be, and the same is, hereby granted and allowed.

STATE OF ARKANSAS, *County of Arkansas:*

I, William F. Gibson, clerk of the circuit court in and for the county and State aforesaid, do hereby certify that the foregoing thirty seven pages contain a full, true, and complete copy of all the papers and record in the cause of Langdon C. Haskell, as administrator of the estate of Augustus M. Smith, deceased, against Ambrose H. Sevier, as administrator, with the will annexed, of the estate of John A. Jordan, dec'd, as the same now appears on file, and of record in my office.

In testimony whereof I have hereunto set my hand as such clerk, and affixed the seal of my office, at office, this 27th day of August, A. D. 1867.

[L. S.]

W'M F. GIBSON, *Clerk*,
By B. F. QUERTERMOUS, *D. C.*

34 Which transcript is endorsed: Filed 6 Nov., 1867. L. E. Barber, cl'k.

And afterwards, to wit, at the December term 1867, of said supreme court, to wit, on the 2nd day of January, 1868, among other proceedings had, were the following, to wit:

LANGDON C. HASKELL, ADM'R AUGUSTUS M. Smith, dec'd, appellant,
vs.
AMBROSE H. SEVIER, ADM'R OF JOHN A. JORDAN, dec'd, et al., appellees.
} Appeal from Arkansas circuit court.

Come the parties, by their respective attorneys, and, on motion, it is ordered that said appellant file his assignment of errors, and the same is now filed.

Thereupon it is ordered that said appellees file their joinder in error, and the same is filed.

Assignment of errors.

In the supreme court of the State of Arkansas, at the December term, A. D. 1867.

L. C. HASKELL, AS AD., APPELLANT,
v.
AMBROSE H. SEVIER, ADMINISTRATOR OF THE estate of John A. Jordan, dec'd, et al., appellees

And now comes the said appellant, and for assignment of errors herein says, that in the record and proceedings, as well as in the judg-
35 ment and decree of the court below in this case, there is manifest error in this:

The court erred in its decree dismissing the complainant's bill of complaint. And in this:

The court erred in not taking jurisdiction of the cause, and in not rendering a decree for the complainant, for closing the mortgage, according to the prayer of the complainant's bill of complaint. And in this:

The court erred in finding that, upon the pleadings and evidence in the cause, the equity of the case was for the defendants, and in decreeing accordingly, and in not finding that such equity was with and for the complainant, and decreeing a foreclosure of the mortgage according to the prayer of complainant's bill of complaint.

And in this: That the said record and decree are otherwise irregular, erroneous, and insufficient. Wherefore, he prays that the same may be set aside, reversed, and held for nought.

CLARK, WILLIAMS & MARTIN,
Solicitors for Appellants.

Filed 2d Jan'y, 1868.

L. E. BARBER, *Clk.*

Joinder in error.

In supreme c't Ark's, at Dec'r T., 1867.

L. C. HASKELL, ADM'R OF SMITH, APPELLANT,
v.
A. H. SEVIER, ADM'R OF JORDAN ET AL., APPELLEES.
Appeal from Ark's ch'c'y.

36 Come said appellees, by sol's, and say that, in the record and proceedings in said cause, and in the rendering of the decree therein, there is no error. Wherefore he prays that the said decree may be in all things affirmed, with costs, &c.

WATKINS & ROSE,
Sol's for Appellees.

And afterwards, upon a farther day of said term of said court, to wit, on the 10th day of February, 1868, the following proceedings were had, to wit:

LANGDON C. HASKELL, AD. OF AUGUSTUS M. Smith, appellant, *vs.* A. H. SEVIER, ADM'R OF JOHN A. JORDAN, ET al., appellees. } Appeal from Arkansas circuit court. In chancery.

This cause came on to be heard upon the transcript of the record of the circuit court of Arkansas County, in chancery, and was argued by counsel. On consideration whereof it is the opinion of the court, that there is error in the proceedings and decree of said circuit court in chancery, in this cause, in this, that said circuit court erred in dismissing the complainant's bill, and rendering a decree against him for costs.

It is therefore ordered and decreed that the decree of said circuit court in chancery, in this cause, be, and same is hereby, for the error aforesaid, reversed, annulled, and set aside, with costs, and that this cause be remanded to said circuit court in chancery for further
37 proceedings to be therein had according to the principles of equity, and with directions to enter a decree therein, according to the opinion of this court, with costs to the complainant therein.

It is further ordered and decreed that said appellant recover of said appellees all his costs in this court in this cause expended, and have execution thereof.

And afterwards, to wit, on the 14th day of February, 1868, the same being a day of the term last aforesaid, the following proceedings were had herein:

LANGDON C. HASKILL, AD., APPELLANT, *vs.* A. H. SEVIER, AD., APPELLEE. } Appeal from Arkansas c't c't. In ch'c'y.

And now comes said appellee, by his attorney, and, on motion, it is ordered that his petition for reconsideration be filed, and thereupon it is filed.

(The petition has been mislaid and cannot be found.—CLERK.)

And afterwards, on a further day of said term, to wit, on February 15, 1868, the following proceedings were had in this cause, to wit:

LANGDON C. HASKELL, APPELLANT, *vs.*
38 A. H. SEVIER, AD., ET AL., APPELLEES.

The court being advised of the petition for reconsideration in this cause, it is denied.

39 And afterwards, on the 24th day of December, A. D. 1868, there was filed in the clerk's office of the supreme court of the State of Arkansas, the following transcript, to wit:

Mandate.

STATE OF ARKANSAS:

In the supreme court.

Be it remembered that a term of the supreme court, begun and held

at the court-house in the city of Little Rock, on the 2nd day, being the first Monday, in December, A. D. 1867, amongst others were the following proceedings, to wit:

LANGDON C. HASKELL, AD. OF AUGUSTUS M. Smith, appellant,
vs.
A. H. SEVIER, AD'R OF JOHN A. JORDAN et al., appellees.

This cause came on to be heard upon the transcript of the record of the circuit court of Arkansas County, in chancery, and was argued by counsel. On consideration whereof it is the opinion of the court that there is error in the proceedings and decree of said circuit court in chancery in this cause is this, that said circuit court erred in dismissing the complainant's bill and rendering a decree against him for costs.

It is therefore ordered and decreed that the decree of said circuit court in chancery in this cause be, and the same is hereby, for the error aforesaid, reversed, annulled, and set aside with costs, and that this cause be remanded to said circuit court in chancery for further
40 proceedings to be therein had according to the principles of equity, and with directions to enter a decree therein according to the opinion of this court, with costs to the complainant therein.

It is further ordered and decreed that said appellant recover of said appellees all his costs in this court in this cause expended, and have execution thereof.

In testimony that the foregoing is a true copy of the decree of said supreme court in said cause, I, Luke E. Barber, clerk of said supreme court, hereto set my hand and affix the seal of said court at my office in the city of Little Rock, this 3d day of March, A. D. 1868.

[L. S.] L. E. BARBER, *Clerk.*

(Endorsements on mandate:) Haskill, adm'r, v. Sevier, adm'r. Mandate. Filed in my office this 5th day of November, A. D. 1868. E. R. Wiley, clerk, by E. A. Douglass, D. C.

Motion for fees.

In the circuit court of Arkansas County, Ark., at the November term A. D. 1868.

HASKELL, AS ADMINISTRATOR OF THE ESTATE of Smith, dec'd,
v.
A. H. SEVIER, AS ADMINISTRATOR OF THE estate of John A. Jordan, dec'd.

41 And now come Bell & Carleton, and Clark & Williams, esqrs., attorneys and solicitors of this court, and solicitors for the complainant in the above-entitled cause, and represent there is about eighty thousand dollars involved in the cause; that the amount of labor which they have had to perform in this cause is immense; that the case, in addition to the proceedings in this court, has already been to the supreme court of this State, and has been adjudicated there, and that the defendants are about to appeal the same again to the supreme court of this State in order to avail *himself* of the benefit of the provisions of the

new constitution of this State, passed since the original decree rendered herein, with a view to take the same to the Supreme Court of the United States for adjudication in that court, in all of which proceedings the said solicitors are required to the cause their further attendance and services.

They further represent that the said complainant, Haskell, is willing and anxious that the said solicitors shall have reasonable pay for their services, but being an administrator, and acting as such, he feels a delicacy in stating the amount which they reasonably ought to have, and the said solicitors, and the said Haskell believing it to be a proper case for the jurisdiction of this court, or the judge thereof, to fix and establish the amount of such fee by order of the court herein, they therefore move the court for an order allowing the said solicitors a proper fee for all their services heretofore performed, and which shall hereafter be performed in the case, to be paid out of the proceeds of the sale of the said lands when recovered.

42 BELL & CARLETON.
CLARK & WILLIAMS.

(Endorsements on above motion:) Haskell, as ad., v. Sevier, as ad. No. 133. Motion for an order for fees for pl'ff's sol's. Filed November 7th, A. D. 1868. E. R. Wiley, clerk, by E. A. Douglas, D. C.

Application for stay and supersedeas.

LANGDON C. HASKELL, AS ADM'R OF AUGUSTUS M. Smith, deceased, complainant,
v.
AMBROSE H. SEVIER, AS ADM'R OF JOHN A. Jordan, deceased, et als., defendants.
} 133. In chancery.

And now, on this day comes the said Ambrose H. Sevier, as such administrator, by his solicitor, and insisting and relying upon all, and each, and every of the grounds of defence set up by him, and appearing upon the record of this cause against the demand and claim set up by said complainant, and the relief, or any relief, in and by his said bill of complaint above thereof prayed, represent and show unto the court here, that, on the eleventh day of February, A. D. 1868, and since the opinion and decision of the supreme court of this State, in this cause
43 given and rendered, in and by the constitution of this State then adopted it was and is ordained, that all contracts for the sale or purchase of slaves are null and void, and no court of this State shall take cognizance of any suit founded on such contracts; nor shall any amount ever be collected or recovered on any judgment or decree which shall have been, or which hereafter may be, rendered on account of any such contract or obligation on any pretext, legal or otherwise. And said defendant, in addition to said other grounds of defence, upon and referring to the record and proceedings had in this cause as if here incorporated, prays the court here that any and all further proceedings for the collection or recovery of said demand and claim so appearing to be founded on a contract for the sale and purchase of slaves, and upon no other consideration, be stayed and perpetually superseded, and that the court here take no further cognizance of this suit.

WATKINS & ROSE,
Sol. for Def't.

(Endorsement on application:) Haskell, adm'r, &c., v. Sevier, adm'r, &c., et al. 133. In chancery. Application of Sevier, adm'r, for stay & supersedeas. Filed November 7th, 1868. Edmund R. Wiley, clerk.

Application for stay and supersedeas.

44 In Arkansas c't court. November term, 1868.

LANGDON C. HASKELL, AS ADM'R OF AUGUSTUS M. Smith, deceased, complainant,
v.
AMBROSE H. SEVIER, AS ADM'R OF JOHN A. Jordan, deceased, et al., defendants. } In chancery.

And now, on this day, come the said defendants, Messrs. J. C. Ricks & Co., by their solicitor, and insisting and relying upon all and each and every of the grounds of defence set up by them, and appearing upon the record of this cause, against the demand and claim set up by said complainant, and the relief, or any relief in and by his said bill of complaint above hereof prayed, represent and show unto the court here, that, on the eleventh day of February, A. D. 1868, and since the opinion and decision of the supreme court of this State, in this cause given and rendered in and by the constitution of this State then adopted, it was and is ordained, that all contracts for the sale or purchase of slaves are null and void, and no court of this State shall take cognizance of any suit founded on such contracts, nor shall any amount ever be collected or recovered on any judgment or decree which shall have been, or which hereafter may be, rendered on account of any such contract or obligation on any pretext, legal or otherwise. And said defendants in addition to said other grounds of defence, upon and referring to the record and proceedings had in this cause as if here incorporated, pray the court here that any and all further proceedings for the collection or recovery of said demand and claim so appearing to be founded on
45 a contract for the sale and purchase of slaves, and upon no other consideration, be stayed and perpetually superseded, and that the court here take no further cognizance of this suit.

GARLAND & NASH,
Sols. for Def'ts.

(Endorsements on application:) Haskell, adm'r, &c., v. Sevier, adm'r, &c., et al. 133. In chancery. Supersedeas & stay of proceedings. Filed November 7th, 1868. Edmund R. Wiley, clerk.

Bill of exceptions.

In Arkansas c't court at November term, 1868.

LANGDON C. HASKELL, AS ADM'R OF AUGUSTUS M. Smith, dec'd, compl't,
v.
AMBROSE H. SEVIER, AS ADM'R OF JOHN A. Jordan, dec., et als., def'ts. } 133. In chancery.

Be it remembered that, on this day, during the progress of this cause, the court, on hearing and consideration of the application made and filed during this present term by and on behalf of said defendant Sevier,

as such administrator, and also of the application made and filed at this term by and on behalf of said defendants, Messrs. J. C. Ricks &
46 Co., for a stay and supersedeas of all further proceedings herein for the collection or recovery of the demand claimed by said complainant herein, did overrule and refuse to grant said applications. To which opinion, judgment, and proceeding of the court in so overruling and refusing to grant said applications, the said defendant Sevier, as such administrator, and Messrs. J. C. Ricks & Co., by their respective solicitors, severally excepted at the time; and to the end that the same may be remembered, now tender this their bill of exceptions in respect thereof, and pray that the same may be signed and sealed by the judge hereof, and ordered to be filed and made a part of the record of this cause; which is accordingly done this 7th day of November, A. D. 1868.

H. B. MORSE, [SEAL.]
Judge, &c.

(Endorsement on bill of exceptions:) Haskell, adm'r, &c., v. Sevier, adm'r, &c., et al. 133. In chancery. Bill of exceptions. Filed November 7th, 1868. Edmund R. Wiley, clerk.

RECORD.

STATE OF ARKANSAS, *County of Arkansas:*

Be it remembered that, at a circuit court, begun and held at the court-house, on the chancery side thereof, on Monday the 2d day
47 of November, A. D. 1868, it being the time appointed by law for holding the said court—present and presiding, the Honorable Henry B. Morse, sitting and presiding as chancellor—the following proceedings were then and there had, to wit:

Mandamus from supreme court of State of Arkansas.

LANGDON C. HASKELL, ADMINISTRATOR OF Augustus M. Smith,
v.
A. H. SEVIER, ADMINISTRATOR OF JOHN A. Jordan, deceased, et al.

Now, on this day is filed herein the order of the supreme court of the State of Arkansas reversing the decree and order of the judge of the circuit court for Arkansas County, in chancery sitting in the above case, together with opinion of said supreme court filed; which order is as follows, to wit:

(See mandate on page , supra.)

Decree.

LANGDON C. HASKELL, AS ADMINISTRATOR OF A. M. Smith, deceased, complainant,
v.
AMBROSE H. SEVIER, ADMINISTRATOR OF John A. Jordan, deceased, defendant.
} In chancery.

And on this day, the said defendant Ambrose H. Sevier, as such administrator, and Messrs. J. C. Ricks and Co., by their respective solic-

itors, file their several applications for a stay and supersedeas of all further proceedings in this cause for their collection or recovery of
48 the demand claimed by said complainant herein. On consideration and hearing whereof the court doth overrule and refuse to grant said applications respectively; to which opinion and decision of the court the said defendants excepted at the time, and now tender their bill of exceptions in respect thereof, which is signed, sealed, filed, and made a part of the record of this cause; and it is ordered, adjudged, and decreed by the court here, that said defendants severally pay the costs of their said applications.

And thereupon, said defendants waiving notice of filing of mandate, this cause came on to be heard upon the record and pleadings and evidence in the cause, and upon the mandate of the supreme court hereinbefore filed, reversing the prior decision of the court herein: Whereupon it appearing to the court that the said complainant's intestate, Augustus M. Smith, in his life-time, to wit, on the 8th day of March, A. D. 1860, sold and delivered to John A. Jordan, deceased, eighty-five negro slaves, for the price and consideration eighty thousand dollars, and executed to him a bill of sale therefor, in which he warranted the said negroes to be sound in body and mind, and slaves for life; that said Jordan paid to the said Smith twenty thousand dollars of the purchase-money at the time of the sale, and to secure the balance of the purchase-money, executed and delivered to the said Smith his four several writings obligatory of that date, in the said bill of complaint mentioned, for the sum of fifteen thousand dollars, each due on the 8th days of March, A. D. 1861, 1862, 1863, and 1864, respectively, and drawing interest at the rate of ten per cent. per annum from
49 date, until paid; that said Jordan, in order to secure the payment of said writings obligatory, on the 15th day of March, 1860, executed and delivered to the said Smith the deed of mortgage of that date, in the said bill of complaint mentioned, whereby he granted, bargained, sold, and conveyed unto the said Smith the following-described tracts of land, situated in said county of Arkansas, in the State of Arkansas, to wit:

The east fractional half of section five (5) in town (8) eight south, range four west, containing $277\frac{15}{100}$ acres; sec. (8,) eight, town. (8) eight south, range four west, containing six hundred and forty acres; the N. $\frac{1}{2}$ of sec. (17) seventeen and the east $\frac{1}{2}$ of S. E. $\frac{1}{4}$ of section (17) seventeen in town (8) eight south, range 4 west, containing four hundred acres; N. $\frac{1}{2}$ of sec. (4,) four, town. (8) eight south, range four west, three hundred and thirty-two $\frac{74}{100}$ acres; S. E. $\frac{1}{4}$ & E. $\frac{1}{2}$ of N. W. $\frac{1}{4}$ sec. 33, T. 7 S., range (4) four west, containing 240 acres; S. W. $\frac{1}{4}$ of sec. (4,) four, containing (160) one hundred and sixty acres—and containing in all two *two* thousand and forty-nine acres and $\frac{89}{100}$, (2,049 $\frac{89}{100}$ acres.)

But which said deed was upon the condition, that if the said Jordan should well and truly pay off and discharge the several four writings obligatory, together with all interest due thereon, when the same should become due respectively, according to the tenor and effect of the said writings obligatory, then the said conveyance should become null and void; which said deed of mortgage was, by the said Smith, without ever having been acknowledged by the said Jordan, recorded in the recorder's office of said county of Arkansas. And it further appearing that, after the execution of said mortgage, and before the com-
50 mencement of this suit, the said John A. Jordan departed this life intestate, leaving the said defendants, in that behalf named as his widow and heirs at law, him surviving; and that the said defend-

ant Ambrose H. Sevier has been duly appointed his administrator, *and that the said Augustus M. Smith was also, previous to the commencement of this suit, departed this life intestate, and that the said complainant has been duly appointed administrator* on his estate. And it also appearing that the said Jordan, in his life-time, did pay off and discharge one of the said writings obligatory, to wit, the said writing obligatory due on the 8th day of March, A. D. 1861, and all interest due thereon, leaving the remaining three of said writings obligatory, principal and interest, wholly unpaid, and which still remain wholly unpaid, though being since due and owng. And it further appearing by an account herein taken, that there is now due and unpaid the sum of forty-five thousand (45,000) dollars of principal, and the further sum of thirty-nine thousand (39,000) dollars interest on the said writings obligatory, making the aggregate sum of eighty-four thousand (84,000) dollars.

It is therefore ordered, adjudged, and decreed by the court, that the said complainant have and recover from the said defendant Ambrose H. Sevier, as the administrator of the said estate of John A. Jordan, deceased, the said sum of eighty-four thousand (84,000) dollars, and that the same draw interest at the rate of ten per cent. per annum from this date. And it is further ordered, adjudged, and decreed, that the said mortgage be, and the same is hereby, foreclosed against each and all of said defendants, and their equity of redemption herein for-
51 ever barred.

And it is further ordered, adjudged, and decreed that the said mortgaged lands shall be sold at public auction to the highest bidder for cash, on the first day of January next, and between the hours prescribed by law for judicial sales, on that day, unless the said sum of eighty-four thousand (84,000) dollars, with all interest thereon, so decreed, shall be sooner paid. And that William H. Halliburton be, and he is hereby, appointed a commissioner of this court to make the said sale. And it is ordered that said Halliburton proceed to advertise such sale in the Jefferson Republican, a newspaper printed at Pine Bluff, in said State, for four weeks previous to said day of sale, and sell the said lands according to such advertisement and the provisions of this decree, and to appropriate the proceeds thereof as follows, to wit:

First. To the payment of all costs and expenses of this suit.

Second. To the payment of the said decree.

Third. If any balance remain, to pay the same over to the said defendant Ambrose H. Sevier, as such administrator, and to report his proceedings in the premises to the next term of this court.

And thereupon, Bell and Carlton, and Clark and Williams, attorneys and solicitors of this court, and solicitors for the said complainant in this cause, come and present to the court here their petition, setting forth the amount of fees and costs incurred, and services performed by them in the prosecution of this case upon the of the said complainant, and praying that their fees and costs as such solicitors may be
52 taxed and settled by the court, and ordered to be paid out of the proceeds of the sale of said lands decreed to said complainant. And thereupon, on said application, it appearing that the said complainant desires the said costs and fees to be taxed and settled by the court here, it is ordered that it be referred to William H. Halliburton and John G. Quertermous, as commissioners of this court, to ascertain the value of the services of said solicitors in this cause, and tax and settle their fees.

And thereupon the said commissioners, after having fully investigated the matter, present to the court here their report, whereby they have

assessed the value of said services of the said solicitors, and taxed and settled the amount of their fees herein, at the aggregate sum of eight thousand (8,000) dollars; it being ten per cent upon the amount of said complainant's decree herein. And thereupon it is ordered that said report be, and the same is hereby, confirmed, and that the said sum of eight thousand (8,000) dollars be paid to said solicitors out of the proceeds of the sale of said lands so decreed to the said complainant and that the same be and remain a lien upon such decree until paid.

Whereupon the said defendant Sevier, as such administrator, and the defendants J. C. Ricks & Co., pray an appeal to the supreme court from the decision and decree rendered herein, and the affidavit for such appeal being waived by said complainant, it is ordered by the court here, that such appeal be, and the same is hereby, granted and allowed.

53 STATE OF ARKANSAS, *County of Arkansas:*

I, Edmund R. Wiley, county clerk and ex-officio clerk of the circuit court within and for the county of Arkansas, aforesaid, do certify that the foregoing and annexed eighteen (18) pages contain a true, complete, and perfect transcript of all the papers and proceedings in a certain cause in the circuit court aforesaid, on the chancery side thereof, in which Langdon C. Haskill, as administrator of the estate of Augustus M. Smith, deceased, were complainants, and Ambrose H. Sevier, as administrator of the estate of John A. Jordan, deceased, and Matilda Jordan, Robert W. Jordan, Mary Jordan, and Irene Jordan, were defendants, as the same severally appear of record and on file in my office.

In testimony whereof I hereto set my hand as such clerk, and affix the seal of said circuit court at office, on this 27th day of November, A. D. 1868.

[L. S.] EDMUND R. WILEY, *Clerk.*

(Endorsed:) Filed Dec. 24, 1868. N. W. Cox, clerk.

And afterwards, at the June term of the court aforesaid, 1869, to wit, on the 25th day of June, 1869, the following proceeding was had in this cause, to wit:

54 AMBROSE H. SEVIER, ADM'R, &C., APPELLANT, *v.* LANGDON C. HASKELL, ADM'R, &C., APPELLEE. } Appeal from Arkansas c't c't. In ch'c'y.

Come the parties by their respective attorneys and this cause is submitted on briefs and by the court taken under advisement.

And afterwards, on a further day of said term, to wit, on the 1st day of July, 1869, the following proceedings were had herein:

And now comes Hon. John Whytock and presents his commission as special associate justice of this court; which commission is in the words and figures following, to wit:

The State of Arkansas to all to whom these presents shall come, greeting:

Whereas, it has been duly certified to me in accordance with law that William M. Harrison, judge of the supreme court in and for the State

of Arkansas, is disqualified, by reason of having presided in same cases in inferior court, to preside at the trial of the following cases now pending before the supreme court of Arkansas, to wit:

* * * * * * *

Ambrose H. Sevier, as adm'r of John A. Jordan, dec'd, and J. C. Ricks & Co., appellants, vs. Langdon C. Haskell, as adm'r of A. M. Smith, dec'd, appellee. Appeal from Arkansas cir. court.

* * * * * * *

55 Now, therefore, I, Powell Clayton, governor of the State of Arkansas, in the name and by the authority of the people of the State, as vested in me by the constitution and laws, do hereby appoint and commission John Whytock special judge to preside on the trial of the cases above named.

In testimony whereof I have hereunto set my hand and caused the seal of the State to be affixed, at Little Rock, this 28th day of June in the year of our Lord one thousand eight hundred and sixty-nine.

[L. S.] POWELL CLAYTON.

By the governor:

ROBERT J. T. WHITE,
Secretary of State.

I, John Whytock, do solemnly swear that I am not disfranchised by the Constitution or laws of the United States or the constitution of the State of Arkansas; that I will honestly and faithfully support and defend the Constitution and laws of the United States, the Union of States, and the constitution and laws of the State of Arkansas, and that I will honestly and faithfully discharge the duties of the office on which I am about to enter to the best of my ability; so help me God.

JOHN WHYTOCK.

56 Sworn to and subscribed before me, N. W. Cox, clerk of the supreme court in and for the State of Arkansas this the 30th day of June, A. D. one thousand eight hundred and sixty-nine.

N. W. COX, *Clerk.*

And afterwards, at the December term, 1870, of said court, to wit, on the 3rd day of January, 1871, the following proceedings were had herein, to wit:

Absent, Hon. W'm M. Harrison; present, Hon. John Whytock, special supreme judge.

AMBROSE H. SEVIER, ADM'R OF JNO. A. JORDAN, dec'd, et al., appellants,
v.
LANGDON C. HASKELL, ADM'R OF A. M. SMITH, dec'd, appellee.
} Appeal from Arkansas circuit court.

This cause came on to be heard upon the transcript of the record of the circuit court of Arkansas County, and was argued by counsel. In consideration whereof it is the opinion of the court that there is no error in the proceedings and judgment of said circuit court in this cause.

It is therefore considered by the court, that the judgment of said circuit court in this cause rendered be, and the same is hereby, in all things affirmed with costs.

It is further considered that said appellees recover of said appellants all their costs in this court in this cause expended and have execution thereof.

57 And afterwards on a further day of said term, to wit, on the 9th day of January, 1871, the following proceedings were had herein, to wit:

AMBROSE H. SEVIER, ADM'R OF JOHN A. JORDAN, deceased, & J. C. RICKS, appellants,
v.
LANGDON C. HASKILL, AS ADM'R OF AUGUSTUS M. SMITH, dec'd, appellee.
} Appeal from Arkansas c't c't.

On this day come the said parties, by their respective solicitors, and said appellants file their motion for allowance of a writ of error, in this cause to the Supreme Court of the United States, and their assignment of errors herein.

And thereupon the said parties file, in court here, their agreement, signed by their respective solicitors, in lieu of a supersedeas bond and to operate as such, and the court here now ratifies the appointment of Solomon F Clark, esq., as receiver of the rents, including those for the year 1871, of the lands adjudged to be subject by way of mortgage security to the payment of the claim and demand of the defendant in error, pending the decision on said writ of error and subject thereto.

And it is accordingly ordered by the court here that said writ of error operate as a supersedeas and stay of execution of the judgment and decree herein made and rendered, pending the decision on said
58 writ of error in the Supreme Court of the United States.

STATE OF ARKANSAS, *sct:*

I, N. W. Cox, clerk of the supreme court of the State of Arkansas, certify the foregoing forty-eight pages contain a full, true, and complete transcript of the records and proceedings had in the foregoing entitled causes, (except the briefs of counsel, opinions of the court, and said petition for reconsideration, which was lost,) as the same are of record and on file in my office.

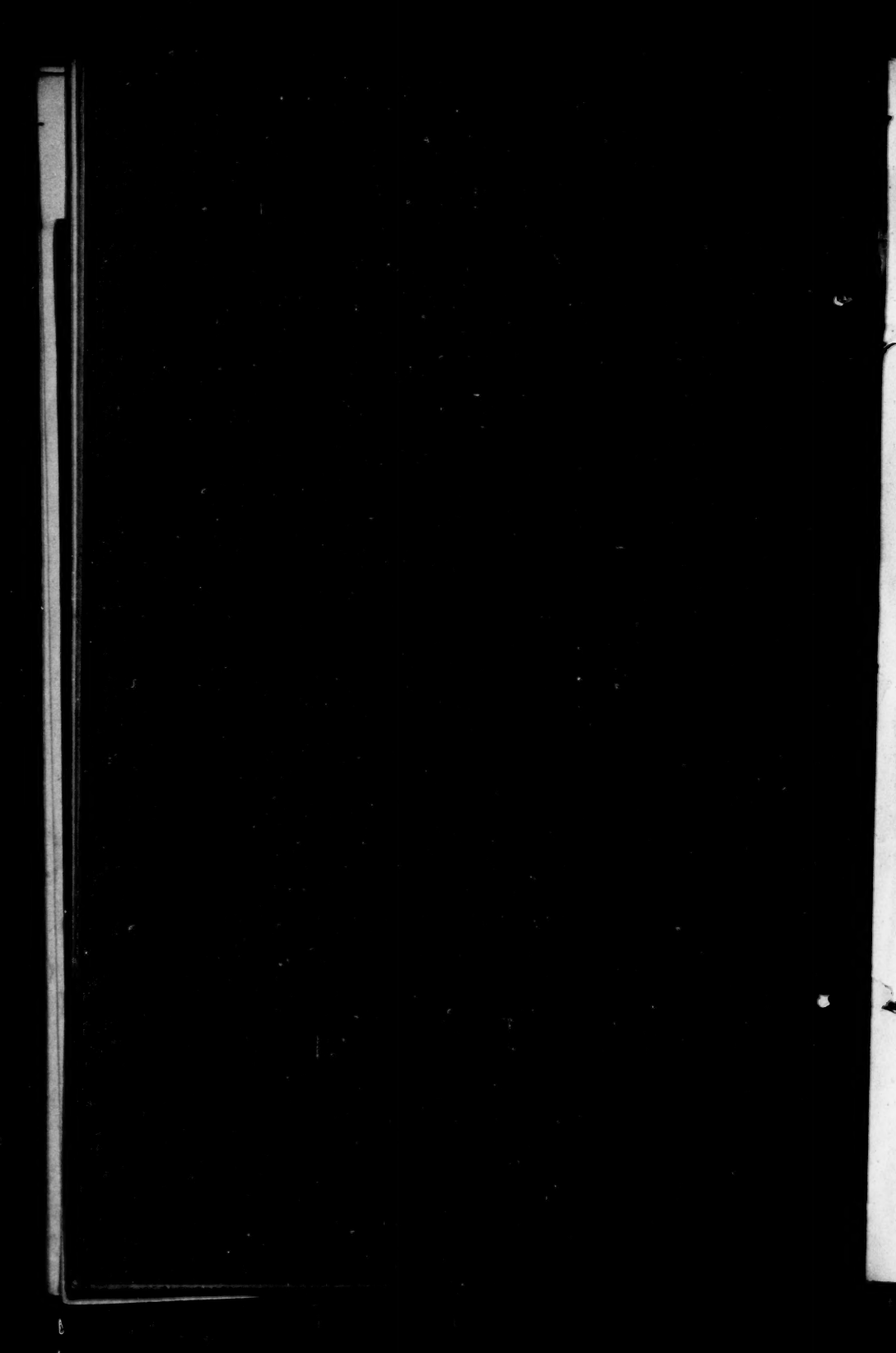
In testimony whereof I have hereto set my hand and affixed the seal of said court, at Little Rock, this 4th day of February, A. D. 1871.

[SEAL.] N. W. COX, *Clerk.*

Costs in supreme court	$19 65
" of this transcript	22 70
Total	$42 35

N. W. COX, *Clerk.*

(Indorsement on cover:) No. 553. Ambrose H. Sevier, adm'r of John A. Jordan, deceased, and J. C. Ricks, plaintiffs in error, vs. Langdon C. Haskell, as adm'r of Augustus M. Smith, deceased. Arkansas sup. court. Filed 14th July, 1871.



IN THE

Supreme Court of the United States.

Ambrose H. Sevier, Adm'r of John A. Jordan et al.

VS.

Landon C. Haskell, Administrator of Smith.

No. 543,

IN ERROR TO STPREME COURT OF ARKANSAS.

DEFENDANT'S MOTION TO DISMISS,

IN THE

Supreme Court of the United States.

Ambrose H. Sevier, Ad'mr of John A. Jordan, et al., vs. Landon C. Haskell, Administrator of Smith.

IN ERROR TO SUPREME COURT OF ARKANSAS.

Comes the defendant in error, by Solomon F. Clark, his attorney, and moves the court here to dismiss this cause for want of jurisdiction, on the special grounds following, to wit:

First. This is a writ of error to the Supreme Court of the State of Arkansas, in a case wherein that court was asked to review, and reconsider matters previously adjudged and settled by said court, in consequence, and because of the provisions contained in section 14, of article XV, of the constitution of Arkansas, of 1868, at a time when the matters involved therein had become *res adjudicata*, and rights were vested under said adjudication, so attempted to be disturbed and set aside.

Secondly. The plaintiff in error claims no right under the Constitution of the United States, the laws or treaties thereof, as to which there has been by said Supreme Court an adverse decision, upon the contrary, plaintiff claims his rights under the provisions of the aforsaid section of the constitution of Arkansas, which claim defendant resisted on the ground that said section contravened the provisions of section 10, of article I, of the constitution of the United States, by impairing the obligation of contract; and so said supreme court sustained, instead of denying, a right claimed under the constitution, etc., of the United States.

Thirdly. The jurisdiction of this court is regulated, provided for, and governed by, the constitution of the United States, and laws thereunder, and is not controlled or regulated otherwise by the character or subject matter of the controversy, and slavery contracts do not of themselves, come within the jurisdiction of this court, unless the case involving the question, comes within the provision of the constitution and laws of the United States. Which will appear by the record in this cause. Wherefore defendant prays that this cause be dismissed for want of jurisdiction.

S. F. CLARK.

ARGUMENT.

In support of the annexed motion, it may not be out of place to call the attention of the court to the facts apparent upon the face of this tramscript.

About 1866, the original bill was filed in the Arkansas circuit court. Although the validity of a slave contract was stoutly debated, yet the principle contest there, was as to whether Jordan's Administrator was so far the personal representative of Jordan as to be, bound by the mortgage, it not having been properly recorded. The circuit court of Arkansas county decided adversrly to us, holding that the administrator represented the creditors as well as the heirs, and was not bound by an unrecorded mortgage. From this decision we appealed, and at the December term, 1867, the supreme court of Arkansas, reversed the judgmeni, deciding the slave contract good, and the mortgage valid, and remanded the cause for execution by sale of lands with specific direction. See *Haskell vs. Sevier*, 25 *Ark.*, 152.

After the decision, and before the executoin of tho decree, the constitution of Arkansas of 1868, was adopted, containing section 14, of article XV. Vitalized by this, the plaintiff in error applied to circuit court of Arkansas county, and in effect, demanded that it should sit as a court of error, and reverse the decision of the supreme court, which the *"reconstructed"* judge respectfully declined to do. The plaintiff then again appelaed to the supreme court, where the dccision of the circuit court was affirmed, and plaintiff, either supposing that the provision of the *Arkansas constitution* gave jurisdiction to the Supreme Court of the United States,

or that there was something in a slavery contract, making this case differ from others, have taken it up, notwithstanding the supreme court of Arkansas decided in favor of a right claimed by us under section 10, of article I, of the Federal Constitution. No where in the whole transcript, is there a sylable, or a line, showing any right claimed under the Federal Constitution, or laws, or treaties, which has been adversely decided, or otherwise, against plaintiff, unless it be held that because the constitution of Arkansas of 1868 having been approved by congress, thereby became a law of the United States; a postion, which, if true, would make the constitutions of every state admitted since 1789, a Federal law, and if such, they have never been repealed, nor could be, however often the states may have changed or amended old, or adopted new constitutions, except by act or approval of congress, a position that would wipe out states literally, and for which the extremest advocate of Federal authority has never contended anywhere; a position which is so absurd that we will not insult the intelligence of this court to argue. We consider a statement of the facts a sufficient argument. The court will find from examination of the transcript, that our statement of facts is correct, and we confidently submit the motion without further argument.

Respectfully submitted,

SOL. F. CLARK.